

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In The Matter Of) WC Docket
No. 05-337

High-Cost Universal Service Support) CC Docket
No. 96-45

Federal-State Joint Board on Universal Service)

COMMENTS OF THE UTAH DIVISION OF PUBLIC UTILITIES

May 19, 2008

**COMMENTS ON REVERSE AUCTION
FCC 08-5**

Before the
Federal Communications Commission
Washington, D.C.

The Utah Division of Public Utilities (UDPU), Investigative Staff for the Utah Public Service Commission submits comments in regards to using reverse auctions to determine the amount of high-cost universal service support provided to eligible telecommunications carriers (ETC) serving rural, insular, and high-cost areas.

The UDPU does not support the Commission's tentative proposal to determine the high-cost universal service support through reverse auctions, particularly in the rural markets. The Commission's tentative proposal is laden with more questions than solutions and may result in the demise of many rural telecommunication companies. Before implementing reverse auctions on a widespread basis, the Commission must investigate the impact of its decision on incumbent rural local exchange carriers (ILEC), state USF programs, and consumers.

It is the UDPU's opinion that there is no advantage to determining the amount of high cost support through reverse auction. Evidence on the record appears to be inadequate to support adoption of a competitive bidding mechanism (reverse auction). This is comparable to a similar conclusion that the Commission reached when it issued the *Universal Service First Report and Order*. The UDPU acknowledges that the Commission has been highly successful in its administration of auctions for *spectrum* allocation, however, it must be recognized that the effect on rural ILECs and the auction format may not necessarily be applicable to setting USF support for a competitive rural market. USF support and spectrum allocation are two completely different entities.

The CTIA, and ALLTEL proposals suggest that reverse auctions would allow a competitive eligible telecommunications carrier (CETC) to carve out pieces of the ILEC network based on the lowest bidder. Verizon argues that the auction area should be small enough to allow the auctions to target support where it is most needed. The problem with the proposals are three fold, 1) the lowest bidder might not be the most qualified to provide USF supported service, 2) The ILEC is unfairly disadvantaged since its overall cost to serve all subscribers in the study area may be higher than serving a small carved out area, and 3) it may encourage "cherry picking" of low cost, high revenue subscribers. All of these options will cause severe financial

hardship on the ILEC, and significantly impact the Utah USF program since, by law,¹ the fund is currently obligated to make up the shortfall when federal jurisdictional revenues do not defray the cost of providing basic supported services in a study area.

Furthermore, to the question of whether the federal USF should be awarded to single or multiple winners in a reverse auction methodology. The UDPU has provided comments to the NPRM on the “Equal Support Rule” which concludes that universal service support should be paid to a single provider for each subscriber address and the fund should be portable. If the Commission chooses to adopt the “reverse auction” methodology, the UDPU continues to support the Commission’s tentative conclusion that the high-cost support should be awarded to a single winner in a pre-specified geographic area.

However, that being said, the UDPU points out that carving an ILEC study area into numerous parcels to accommodate CETCs business plan may not assure that consumers have choice and may also be detrimental to the rural ILECs economic viability. As the Commission has recognized, there are complex issues to take into account with regard to the obligation to serve, and who pays for the ILECs stranded plant investment. An additional factor to consider is that consumers will no longer have choice since the auction winner will be the only provider of telecommunication services in a pre-determined geographic area. To promote a strong competitive environment there must be a level playing field where all providers compete for the same subscribers, it is the consumer who determines the winner not the Commission. These and countless other questions need to be answered before the Commission implements the “reverse auction” methodology.

Historically, in the construction business, the bidding or auction process tends to trigger a participant to cut corners or leave out necessary equipment so that the cost of the project will be low. This behavior may be encountered in the telecommunications “reverse auction” process. The telecommunications providers may submit bids, that when implemented, will provide non-acceptable telephone service to the subscribers. The subscriber will be held hostage. If the Commission elects to implement the “reverse auction methodology” it must develop additional ETC rules to forestall undesirable behavior.

In Summary, the UDPU recommends that the Commission reconsider its tentative conclusion to implement “reverse auction” as a methodology to distribute Federal USF subsidy to those who serve in high-cost areas. In its

¹ Utah Code Title 54 Public Utilities Statutes 54-8b-15(7)

place, the Commission should develop a cost-based methodology for USF distribution as discussed the FCC 08-4 NPRM.

The Commission's tentative conclusion on "reverse auction" is laden with more questions than solutions and may result in the demise of many rural telecommunication companies. Prior to implementing the "reverse auction" process, the Commission must consider the impact on rural ETCs, state USF programs and consumers. To assure the validity of "reverse auction", the UDPU supports the idea of employing a pilot program² in a small geographic area where there are numerous providers, to test the use of "reverse auction" to distribute high cost support to a single provider. During its analysis, the Commission must ascertain the consequences on state USF programs and consumers in conjunction with its federal programs.

² FCC 08-5 I, paragraph 50